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HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Criminal Case No.2076 of 2016

Bunty Gadhewal, S/o Shri Prem Gadhewal, aged about 19 years, R/o Mini Basti, Jarhabhata, P.S. Civil Line, Tehsil and District Bilaspur (C.G.)

---- Applicant

Versus

The State of Chhattisgarh, through Station House Officer of Police Station Civil Line, Bilaspur, District Bilaspur (C.G.)

---- Non-applicant

For Applicant:	Mr. Shivang Dubey, Advocate.
For Non-applicant:	Mr. Vivek Singhal, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

20/04/2016

1. The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing him on regular bail during trial in connection with Crime No.193/2016, registered at Police Station Civil Lines, Bilaspur, Distt. Bilaspur, for the offence punishable under Sections 34(1)(a) and 59-A of the Chhattisgarh Excise Act, 1915.
2. Case of the prosecution, in brief, is that 7 bulk liters of illicit liquor was seized by the police from the present applicant.
3. Learned counsel for the applicant submits that the applicant has not committed any offence, he has falsely been implicated in the case, he is in custody since 22-3-2016 and therefore, he may be released on bail. He further submits that there was one criminal case against the applicant in which he has already been acquitted.
4. On the other hand, learned counsel for the State opposes the bail

application.

5. I have heard learned counsel appearing for the parties and perused the case diary.

6. Taking into consideration the condition incorporated in Section 59-A(ii) of the Chhattisgarh Excise Act, 1915, and bearing in mind the principles of law laid down in **Banti Singh v. State of Chhattisgarh** (M.Cr.C.No.6846 of 2014, decided on 05.01.2015), if the facts of the present case are examined, it is apparent that only 7 bulk liters of illicit liquor has been seized from the applicant which is more than the prescribed limit of 5 bulk liters, but looking to the fact that it is the first offence of the applicant and he is in custody from 22-3-2016, the case is triable by the Judicial Magistrate First Class, trial is likely to take some more time and further taking into account the nature and gravity of offence and the plea raised by the applicant that he has falsely been implicated in the case, I am of the opinion that present is a fit case in which the applicant should be enlarged on regular bail.

7. Accordingly, the bail application filed under Section 439 of the CrPC is allowed. It is directed that on furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court for his appearance as and when directed, the applicant shall be released on bail, subject to following conditions:

    1. That, the applicant shall furnish a specific undertaking that while on bail, he will not commit any excise offence, otherwise bail granted to him shall be liable to be cancelled and shall co-operate the prosecution during trial.
    2. That, the accused/applicant shall make himself available for

interrogation before the concerned Investigating Officer as and when required and the accused/applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer.

3. That, the accused/applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma